## UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

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Little Isle IV, LLC, a )NO. CV-09-142-PHX-SRB

Delaware Limited Liability )
Company; Ula Makika, LLC, a )

Delaware Limited Liability )
Company; and Philip Kenner, )

Plaintiffs, )

vs. )

Kenneth A. Jowdy, et al., )

Defendant. )
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VIDEOTAPED DEPOSITION OF ROBERT GAUDET

Phoenix, Arizona

July 2, 2009

9:05 a.m.

- 13 A. I don't recall. I don't recall specifically.
- 14 Q. Okay. Do you remember whether someone gave you a
- 15 phone call or sent you a letter or an e-mail or --
- 16 A. Hmm. It may -- If you can ask that question
- 17 again, as we go forward I'll continue to try and recall.
- 18 I just don't recall my initial awareness.
- MR. LAKE: Okay. Can you mark this as
- 20 Exhibit 1, please.
- 21 (Deposition Exhibit No. 1 was marked for
- 22 identification by the court reporter.)
- Q. BY MR. LAKE: Mr. Gaudet, I'm showing you what's
- 24 been marked as Exhibit 1.
- A. Okay.

- 1 Q. By the way, how do you pronounce your last name?
- A. Gaudet is good.
- 3 Q. Gaudet?
- 4 A. Yes.
- 5 Q. Kind of like the Australian good day, sir?
- 6 A. Usually brings a smile to my face.
- 7 Q. Okay. This document that's marked as Exhibit 1
- 8 is titled at the top: Revolving Line of Credit Loans,
- 9 12/7/04.

- Have you ever seen this document before?
- 11 A. Before?
- 12 Q. Before now.
- 13 A. Before now, yes.
- 14 Q. Okay. I'm going to -- this obviously is the --
- 15 Do you understand this to be the document whose
- 16 authenticity has been requested in this lawsuit?
- 17 A. Who? Or --
- 18 Q. Do you understand that this document is one of
- 19 the documents that is central to the lawsuit involving
- 20 Mr. Jowdy and Mr. Kenner?
- 21 A. Yes.
- Q. Okay. I'm going to refer to this as the loan
- 23 agreement document or the contract or the written
- 24 contract. So if I say any of those terms, will you
- 25 understand that to mean this document?

- 1 A. Yes.
- Q. Okay. What is the first time that you -- Well,
- 3 let me have you take a look at the second page of the
- 4 document. Does that appear to be your signature there
- 5 under the line that says "Witness"?
- 6 A. Yes.

- 7 Q. All right. I want you to take a minute to think
- 8 about this question before you answer it and then provide
- 9 your sworn testimony for the Court.
- Did you sign this document in December 2004?
- 11 A. Yes.
- 12 Q. Do you have a clear recollection of having done
- 13 that?
- 14 A. I have a fairly clear recollection, yes.
- Q. Did you see Ken Jowdy sign this document in 2004?
- 16 A. I recall a document with his name on it and a
- 17 line, and I recall a document with a line that I was
- 18 requested to witness.
- 19 Q. So do you mean to say that you don't know whether
- 20 it was this same document that you saw him sign?
- A. I assume.
- 22 Q. You assume -- I'm not sure I understand what you
- 23 mean.
- A. I assume it was the same document, yes.
- Q. Well, what is that assumption based on?

- 1 A. The line that I'm looking at, the signature that
- 2 I'm looking at.
- 3 Q. Okay. But what you're saying, then, I think, if

- 1 Q. Did Mr. Kenner ask you or John Kaiser to -- to
- 2 speak with each other --
- 3 A. No.
- 4 Q. -- about the litigation?
- 5 During this meeting with Mr. Kaiser, did
- 6 you -- did you discuss at all the loan -- this loan
- 7 agreement document, Exhibit 1?
- 8 A. He asked me if I could recall anything, yes.
- 9 Q. Why did he bring up that topic?
- 10 MR. HARPER: Object to form.
- 11 MR. AUGUSTINE: Object to form.
- 12 If you know.
- 13 Q. BY MR. LAKE: If you know. Did he say?
- 14 A. Repeat the question.
- Q. Do you know why Mr. Kaiser brought up this topic
- 16 of the loan agreement document while you were having
- 17 dinner?
- 18 A. No.
- 19 Q. What did he ask you?
- A. What did he ask me. I just recall things being
- 21 very general. Nothing very -- nothing pointed, nothing
- 22 specific.

- Q. Tell me everything you remember about what you
- 24 said in this discussion about the loan agreement document.
- 25 A. With John Kaiser?

- 1 Q. With John Kaiser, right.
- 2 A. I don't recall.
- 3 Q. The only thing you recall is that he mentioned
- 4 the existence of this document?
- 5 A. Yes.
- 6 Q. Did he ask you if you remembered signing it?
- 7 A. Yes.
- 8 Q. And what did you tell him?
- 9 A. I told him what I mentioned to you earlier, that
- 10 I recall signing as a witness to a document.
- 11 Q. Did you tell him that you didn't remember exactly
- 12 what the -- which document it was or what the document
- 13 was?
- 14 A. Yes, correct.
- 15 Q. Did he mention that he had any involvement with
- 16 the creation of this loan agreement document?
- 17 A. Yes.
- 18 Q. What did he tell you?
- 19 A. He told me it was a document that he needed



- 20 for -- it was a document he had for the Hawaii entity, for
- 21 the Hawaii company.
- Q. Did he have a copy of the document there at the
- 23 dinner?
- 24 A. No.
- Q. Did you know what document he was talking about?

- 1 A. He had referred to it as a loan document.
- 2 Could you repeat that question so I can just
- 3 be accurate for you?
- 4 Q. Yeah. I just -- I just wanted to know if you
- 5 knew what he -- what document he was talking about in the
- 6 conversation.
- 7 A. Yes.
- 8 Q. What document did you understand him to be
- 9 talking about?
- 10 A. I got this document or I received this document
- 11 through two different persons. One was Tom Harvey and one
- 12 was Fernando Garcia.
- 13 Q. When you say this document, you mean this
- 14 Exhibit 1?
- 15 A. Exhibit 1, yes.
- 16 Q. Okay. And you believe you received it before